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Attorneys for USACM Liquidating Trust

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

USA CAPITAL REALTY ADVISORS, LLC,

USA CAPITAL DIVERSIFIED TRUST DEED
FUND, LLC,

USA CAPITAL FIRST TRUST DEED FUND,
LLC,

USA SECURITIES, LLC,

Debtors.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR
Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case No. BK-S-
06-10725 LBR

NOTICE OF HEARING REGARDING
OMNIBUS OBJECTION OF THE
USACM LIQUIDATING TRUST TO
COMMISSION CLAIMS ASSERTING
PRIORITY STATUS

Hearing Date: April 26, 2007
Hearing Time: 9:30 a.m.

THE USACM LIQUIDATING TRUST IS OBJECTING TO THE CLAIM THAT
YOU FILED. THIS IS NOT AN OBJECTION TO THE VALIDITY OF AMOUNT
OF YOUR CLAIM SEEKING COMMISSIONS. RATHER, IT ARGUES THAT
YOUR CLAIM IS NOT ENTITLED TO PRIORITY STATUS AND SHOULD BE
RECLASSIFIED AS A GENERAL UNSECURED CLAIM. THE DEADLINE TO
RESPOND TO THE OBJECTION IS APRIL 19, 2007. PLEASE DO NOT
CONTACT THE CLERK OF THE BANKRUPTCY COURT TO DISCUSS THE

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1 **MERITS OF YOUR CLAIM.** QUESTIONS REGARDING THE AMOUNT OF A
2 CLAIM OR THE FILING OF A CLAIM SHOULD BE DIRECTED TO BMC
3 GROUP AT 888-909-0100, OR WWW.BMCGROUP.COM/USACMC, or to the
4 undersigned counsel.

5 NOTICE IS HEREBY GIVEN that the USACM Liquidating Trust, by and
6 through its counsel, has filed an Omnibus Objection to Commission Claims Asserting
7 Priority Status (the "Objection"). The USACM Liquidating Trust has requested that this
8 Court enter an order, pursuant to section 502 of title 11 of the United States Code (the
9 "Bankruptcy Code") and Rule 3007 of the Federal Rules of Bankruptcy Procedure (the
10 "Bankruptcy Rules"), for an order denying priority status to approximately 11 alleged
11 Priority Claims filed by former loan brokers (or their assignees) asserting Claims against
12 USA Commercial Mortgage Company ("USACM") that aggregate over \$207,000.

13 Specifically, the USACM Liquidating Trust believes that brokers were involved in
14 many instances in the solicitation of investments into non-performing loans and/or the
15 assignment of certain Direct lenders into or out of investments in non-performing loans,
16 possibly in violation of Nevada law, and that brokers may not be entitled to any
17 commissions purportedly earned by such activities. In this Objection, however, the
18 USACM Trust only contends that the commissions Claims are not entitled to priority
19 status and that they should be reclassified as general unsecured Claims (albeit subject to
20 potential further objection). As explained in the motion, the USACM Liquidating Trust
21 may have other objections to the claims that will be filed later.

22 NOTICE IS FURTHER GIVEN that the hearing on the Objection will be held
23 before the Honorable Linda B. Riegle, United States Bankruptcy Judge, in the Foley
24 Federal Building, 300 Las Vegas Boulevard South, Courtroom 1, Las Vegas, Nevada, on
25 April 26, 2007, at the hour of 9:30 a.m.
26

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1 NOTICE IS FURTHER GIVEN THAT THE HEARING SET ON APRIL 26,
2 2007, WILL BE HELD FOR THE PURPOSE OF STATUS CHECKS AND
3 SCHEDULING EVIDENTIARY HEARINGS ONLY. NO ARGUMENTS WILL BE
4 HEARD ON THAT DATE.

5 NOTICE IS FURTHER GIVEN that any response to the Objection must be filed
6 by April 19, 2007 pursuant to Local Rule 3007(b), which states:

7 If an objection to a claim is opposed, a written response must be filed and
8 served on the objecting party at least 5 business days before the scheduled
9 hearing. A response is deemed sufficient if it states that written
10 documentation in support of the proof of claim has already been provided to
the objecting party and that the documentation will be provided at any
evidentiary hearing or trial on the matter.

11 If you object to the relief requested, you *must* file a **WRITTEN** response to this
12 pleading with the Court. You *must* also serve your written response on the person who
13 sent you this notice.

14 If you do not file a written response with the Court, or if you do not serve your
15 written response on the person who sent you this notice, then:

- 16 • The Court may *refuse to allow you to speak* at the scheduled hearing; and
- 17 • The Court may *rule against you* without formally calling the matter at the
18 hearing.

19 Dated: March 23, 2007.

LEWIS AND ROCA LLP

20 By: /s/ RC (#6593)

21 Susan M. Freeman, AZ 4199 (*pro hac vice*)

22 Rob Charles, NV 6593

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Attorneys for USACM Liquidating Trust

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

USA COMMERCIAL MORTGAGE COMPANY,

USA CAPITAL REALTY ADVISORS, LLC,

USA CAPITAL DIVERSIFIED TRUST DEED FUND,
LLC,

USA CAPITAL FIRST TRUST DEED FUND, LLC,

USA SECURITIES, LLC,

Debtors.

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR
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CHAPTER 11

Jointly Administered Under Case No. BK-S-06-
10725 LBR

OMNIBUS OBJECTION OF THE USACM
LIQUIDATING TRUST TO COMMISSION
CLAIMS ASSERTING PRIORITY STATUS

Hearing Date: April 26, 2007
Hearing Time: 9:30 a.m.

Affects:

- ☐ All Debtors
☒ USA Commercial Mortgage Company
☐ USA Capital Realty Advisors, LLC
☐ USA Capital Diversified Trust Deed Fund, LLC
☐ USA Capital First Trust Deed Fund, LLC
☐ USA Securities, LLC

The USACM Liquidating Trust (the "USACM Trust") hereby files its Omnibus Objection to Commission Claims Asserting Priority Status ("Objection") and moves this Court, pursuant to section 502 of title 11 of the United States Code (the "Bankruptcy Code") and Rule 3007 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), for an order denying priority status to approximately 11 alleged priority Claims filed by former loan brokers (or their assignees) asserting Claims against USA Commercial Mortgage Company ("USACM") that aggregate over \$207,000. The USACM Trust is not, by this filing, objecting at this time to any of the Claims as

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1 unsecured Claims, but reserves the right to do so. This Objection is supported by the
2 Court's record and explained in the following Memorandum.

3
4 **I. JURISDICTION**

5 1. The Court has jurisdiction over this Objection pursuant to 28 U.S.C. §§ 1334
6 and 157. Venue is appropriate under 28 U.S.C. §§ 1408 and 1409. This matter is a core
7 proceeding under 28 U.S.C. § 157(b)(2)(B).

8 2. The statutory predicate for the relief requested herein are 11 U.S.C. § 502
9 and Bankruptcy Rule 3007.

10 **II. BACKGROUND**

11 1. On April 13, 2006 ("Petition Date"), USACM, USA Securities, LLC ("USA
12 Securities"), USA Capital Realty Advisors, LLC ("USA Realty"), USA Capital
13 Diversified Trust Deed Fund, LLC ("DTDF"), USA Capital First Trust Deed Fund, LLC
14 ("FTDF" and together with DTDF, the "Funds") (collectively the "Debtors"), filed
15 voluntary petitions for relief under chapter 11 of the Bankruptcy Code. The Debtors
16 continued to operate their businesses, if any, as debtors-in-possession pursuant to sections
17 1107(a) and 1108 of the Bankruptcy Code. Post-petition management of the Debtors was
18 under the direction of Thomas J. Allison of Mesirow Financial Interim Management, LLC
19 ("Mesirow"), who serves as the Chief Restructuring Officer.

20 2. USACM is a Nevada Corporation that, prior to the Petition Date, was in the
21 business of underwriting, originating, brokering, funding and servicing commercial loans
22 primarily secured by real estate, both on behalf of investors and for its own account.

23 3. This business included the solicitation of individual investors to purchase
24 fractional interest in loans that USACM originated and then serviced. These investors,
25 totaling approximately 3,600 as of the Petition Date, are referred to as "Direct Lenders" in
26 USACM's bankruptcy case and in this Objection.

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1 4. Although USACM serviced and sometimes originated the loans in which the
2 Direct Lenders invested, USACM was not a borrower on these loans.

3 5. On September 14, 2006, the Court entered its Order Setting Deadline to File
4 Proofs of Claim and Proofs of Interest (the "Bar Date Order") [Docket No. 1280]. The
5 Bar Date Order established 5:00 p.m., prevailing Pacific Time, on November 13, 2006, as
6 the deadline ("Bar Date") for creditors to file proof of claims

7 6. On September 25, 2006, the Debtors served a copy of the Bar Date Order on
8 their service lists [Docket No. 1358]. All Direct Lenders were served with a copy of the
9 Bar Date order as well [Docket No. 1358].

10 7. On November 6, 2006, a stipulation was filed and an order entered extending
11 the Bar Date for Direct Lenders only to file proofs of claim until January 13, 2007 [Docket
12 No. 1729].

13 8. On January 8, 2007, this Court entered its Order Confirming the "Debtors'
14 Third Amended Joint Chapter 11 Plan of Reorganization" [Docket No. 2376].

15 9. Debtors' Third Amended Chapter 11 Plan of Reorganization (the "Plan")
16 [Docket No. 1799] provides the following deadlines for objections to Claims:

17 (A) for any and all Claims and Equity Interests to which the
18 General Bar Date applies, ninety (90) days after the Effective Date; (B) for
19 any and all Claims to which the Administrative Claims Bar Date or the
20 Professionals Administrative Bar Date applies, thirty (30) days after the
21 expiration of the respective Bar Date; and (C) for any and all Claims to
22 which the Bar Date applicable under section B.3 of Art. V of the Plan
23 applies, thirty (30) days after the expiration of that Bar Date.

24 10. USACM's claims and noticing agent received approximately 2,436 proofs of
25 claim as of the January 13, 2007 Bar Date, asserting claims totaling more than
26 \$997,000,000, plus unknown amounts based on unliquidated Claims.

11. Under the Plan, the USACM Trust is the successor to USACM with respect
to standing to seek allowance and disallowance of Claims.

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1 12. The USACM Trust exists as of the Effective Date of the Plan, which was
2 March 12, 2007. Geoffrey L. Berman is the Trustee.

3 13. Several former loan brokers (or their assignees) filed 11 proofs of claim
4 against USACM seeking commissions and asserting priority status, as listed on Exhibit A
5 hereto (the "Commission Claims").

6 14. The USACM Trust believes that brokers were involved in many instances in
7 the solicitation of investments into non-performing loans and/or the assignment of certain
8 Direct Lenders into or out of investments in non-performing loans, possibly in violation of
9 Nevada law, and that brokers may not be entitled to any commissions purportedly earned
10 by such activities. In this Objection, however, the USACM Trust only contends that the
11 Commission Claims are not entitled to priority status and that they should be reclassified
12 as general unsecured Claims (albeit subject to potential further objection).

13 III. APPLICABLE AUTHORITY

14 1. Under the Bankruptcy Code, any Claim for which a proof of claim has been
15 filed will be allowed unless a party in interest objects. If a party in interest objects to the
16 proof of claim, the Court, after notice and hearing, shall determine the amount of the
17 Claim and shall allow the Claim except to the extent that the Claim is "unenforceable
18 against the debtor . . . under any . . . applicable law for a reason other than because such
19 claim is contingent or unmatured." 11 U.S.C. § 502(b).

20 2. The USACM Trust is entitled to object to proofs of claim under 11 U.S.C.
21 § 502(a). This objection is timely under the confirmed Plan.

22 3. A properly filed proof of claim is presumed valid under Bankruptcy Rule
23 3001(f). However, once an objection to the proof of claim controverts the presumption,
24 the creditor ultimately bears the burden of persuasion as to the validity and amount of the
25 Claim. See *Ashford v. Consolidated Pioneer Mortg. (In re Consolidated Pioneer Mortg.)*,
26 178 B.R. 222, 226 (B.A.P. 9th Cir. 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996). The ultimate

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1 burden of proof as to the validity of a proof of claim "remains at all times upon the
2 claimant." *Lundell v. Anchor Constr. Specialists, Inc. (In re Lundell)*, 223 F.3d 1035,
3 1039 (9th Cir. 2000).

4 5 IV. OBJECTIONS TO CLAIMS

6 1. As more particularly described herein, the USACM Trust seeks in this
7 Objection the reclassification of the Commission Claims as general unsecured Claims.

8 2. These Claims may be the subject of multiple objections herein for any of the
9 reasons stated in this Objection. These Claims may also be subject to prior or
10 subsequently filed objections.

11 3. The USACM Trust reserves the right to further object to any and all Claims,
12 whether or not the subject of this Objection, for allowance and/or distribution purposes on
13 any other grounds. The USACM Trust further reserves the right to modify, supplement
14 and/or amend this Objection as it pertains to any Claim or claimant herein.

15 4. As explained, many of the loans brokered by USACM brokers involved the
16 solicitation of investments into non-performing loans, possibly in violation of Nevada law,
17 The USACM Trust believes that the Commission Claims listed on Exhibit A are not
18 entitled to priority status, and may not be allowable at all as Claims against USACM.
19 However, this Objection is limited only to the priority status of the Claims. As noted
20 above, USACM reserves all other objections to these Claims.

21 V. CONCLUSION

22 For the reasons discussed above, the USACM Trust objects to the priority status
23 asserted in the proofs of claim listed on Exhibit A and requests that the Court reclassify
24 these Claims as general unsecured Claims (albeit subject to possible additional objections).
25 The USACM Trust also requests such other and further relief as is just and proper.
26

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Dated: March 23, 2007.

LEWIS AND ROCA LLP

By: /s/ RC (#6593)

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Rob Charles, NV 6593

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Counsel for USACM Liquidating Trust

Exhibit A
USA COMMERCIAL MORTGAGE
Objection to Commission Claims Asserting Priority Status - Reclassify Entire Claim Amount as a General Unsecured Claim

<u>Claimant</u>	<u>Proof of Claim Number</u>	<u>Date Claim Filed</u>	<u>Proof of Claim Amount</u>	<u>Proof of Claim Priority Asserted</u>	<u>Proposed Treatment/Comments Objection</u>
1 Baskin, Stewart 2625 N Green Valley Pkwy Ste 125 Henderson, NV 89014	10725-01792	12/13/2006	\$3,500.00	P	Reclassify claim as a general unsecured claim. Claim is for commission by broker who signed up lenders for non-performing loans. Claim was also filed after November 13, 2006 Bar Date.
2 Debt Acquisition Comp Of America V LLC 1565 Hotel Cir South Ste 310 San Diego, CA 92108	10725-00779	10/27/2006	\$37,037.93	P, U	Reclassify claim as a general unsecured claim. Claim is for commission by broker who signed up lenders for non-performing loans.
3 Debt Acquisition Comp Of America V LLC 1565 Hotel Cir South Ste 310 San Diego, CA 92108	10725-00780	10/27/2006	\$43,017.52	P, U	Reclassify claim as a general unsecured claim. Claim is for commission by broker who signed up lenders for non-performing loans.
4 Debt Acquisition Comp Of America V LLC 1565 Hotel Cir South Ste 310 San Diego, CA 92108	10725-00781	10/27/2006	\$25,107.97	P, U	Reclassify claim as a general unsecured claim. Claim is for commission by broker who signed up lenders for non-performing loans.
5 Debt Acquisition Comp Of America V LLC 1565 Hotel Cir South Ste 310 San Diego, CA 92108	10725-00783	10/27/2006	\$31,762.23	P, U	Reclassify claim as a general unsecured claim. Claim is for commission by broker who signed up lenders for non-performing loans.
6 Debt Acquisition Comp Of America V LLC 1565 Hotel Cir South Ste 310 San Diego, CA 92108	10725-00904	10/27/2006	\$20,067.97	P, U	Reclassify claim as a general unsecured claim. Claim is for commission by broker who signed up lenders for non-performing loans.
7 Esteves, Douglas A 4500 S Lakeshore St # 322 Tempe, AZ 85282	10725-00251	9/26/2006	\$6,468.75	P, U	Reclassify claim as a general unsecured claim. Claim is for commission by broker who signed up lenders for non-performing loans.


Objection to Commission
Claims Asserting Priority

EXHIBIT A

8	Lee, Devin 7493 Big Cottonwood Ct. Las Vegas, NV 89123	10725-00944	11/2/2006	\$13,875.00	P, U	Reclassify claim as a general unsecured claim. Claim is for commission by broker who signed up lenders for non-performing loans.
9	Mollo, Mike 316 S Broadway #B Redondo Beach, CA 90277-3709	10725-00366	10/2/2006	\$16,587.50	P, U	Reclassify claim as a general unsecured claim. Claim is for commission by broker who signed up lenders for non-performing loans
10	Mollo, Mike 316 S Broadway #B Redondo Beach, CA 90277-3709	10725-00371	10/2/2006	Blank	P	Reclassify claim as a general unsecured claim. Claim is for commission by broker who signed up lenders for non-performing loans. Proof of claim is also unsined
11	Morgan, Stephanie Amber 3014 W William Cannon Apt 1538 Austin, TX 78745	10725-00964	11/2/2006	\$10,000.00	P	Reclassify claim as a general unsecured claim. Claim is for commission by broker who signed up lenders for non-performing loans.

Objection to Commission
Claims Asserting Priority

EXHIBIT A

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEVADA		PROOF OF CLAIM	
Name of Debtor: USA COMMERCIAL MONTLAGE		Case Number: 06-10725	
NOTE: See Reverse for List of Debtors and Case Numbers. This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.		<input type="checkbox"/> Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input checked="" type="checkbox"/> Check box if you have never received any notices from the bankruptcy court or BMC Group in this case. <input checked="" type="checkbox"/> Check box if this address differs from the address on the envelope sent to you by the court.	
Name of Creditor and Address: STEWART BASKIN 2625 N. GREEN VALLEY PIKE SUITE #125 HENDERSON, NV, 89014		DO NOT FILE THIS PROOF OF CLAIM FOR A SECURED INTEREST IN A BORROWER THAT IS NOT ONE OF THE DEBTORS. If you have already filed a proof of claim with the Bankruptcy Court or BMC, you do not need to file again. THIS SPACE IS FOR COURT USE ONLY	
Creditor Telephone Number (702) 434-5684 Last four digits of account or other number by which creditor identifies debtor: 0725		Check here <input type="checkbox"/> replaces or amends a previously filed claim dated: _____ if this claim <input type="checkbox"/>	
1. BASIS FOR CLAIM <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> Goods sold <input checked="" type="checkbox"/> Services performed <input type="checkbox"/> Money loaned </div> <div style="width: 45%;"> <input type="checkbox"/> Personal injury/wrongful death <input type="checkbox"/> Taxes <input type="checkbox"/> Other (describe briefly) _____ </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 45%;"> <input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. § 1114(a) <input checked="" type="checkbox"/> Wages, salaries, and compensation (fill out below) Last four digits of your SS #: 0339 Unpaid compensation for services performed from: 3-20-06 to 4-10-06 (date) (date) </div> <div style="width: 45%;"> <input type="checkbox"/> Unremitted principal <input type="checkbox"/> Other claims against servicer (not for loan balances) </div> </div>			
2. DATE DEBT WAS INCURRED: MARCH 20 - APRIL 10 - 2006 3. IF COURT JUDGMENT, DATE OBTAINED: _____			
4. CLASSIFICATION OF CLAIM. Check the appropriate box or boxes that best describe your claim and state the amount of the claim at the time case filed. See reverse side for important explanations.			
UNSECURED NONPRIORITY CLAIM \$ _____ <input type="checkbox"/> Check this box if: a) there is no collateral or lien securing your claim, or b) your claim exceeds the value of the property securing it, or if c) none or only part of your claim is entitled to priority.		SECURED CLAIM <input type="checkbox"/> Check this box if your claim is secured by collateral (including a right of setoff). Brief description of collateral: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other _____ Value of Collateral: \$ _____ Amount of arrearage and other charges at time case filed included in secured claim, if any: \$ _____	
UNSECURED PRIORITY CLAIM <input checked="" type="checkbox"/> Check this box if you have an unsecured claim, all or part of which is entitled to priority. Amount entitled to priority \$ 3500.00 Specify the priority of the claim: <input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B) <input checked="" type="checkbox"/> Wages, salaries, or commissions (up to \$10,000)*, earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4). <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(5).		<input type="checkbox"/> Up to \$2,225* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8). <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507(a) (____). <small>* Amounts are subject to adjustment on 4/1/07 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</small>	
5. TOTAL AMOUNT OF CLAIM \$ _____ (unsecured) \$ _____ (secured) \$ 3500.00 (priority) \$ 3500.00 (Total) AT TIME CASE FILED:			
<input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.			
6. CREDITS: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.			
7. SUPPORTING DOCUMENTS: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.			
8. DATE-STAMPED COPY: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.			
The original of this completed proof of claim form must be sent by mail or hand delivered (FAXES NOT ACCEPTED) so that it is actually received on or before 5:00 pm, prevailing Pacific time, on November 13, 2006 for each person or entity (including individuals, partnerships, corporations, joint ventures, trusts and governmental units). BY MAIL TO: BMC Group Attn: USACM Claims Docketing Center P. O. Box 911 El Segundo, CA 90245-0911		THIS SPACE FOR COURT USE ONLY	
BY HAND OR OVERNIGHT DELIVERY TO: BMC Group Attn: USACM Claims Docketing Center 1330 East Franklin Avenue El Segundo, CA 90245		FILED DEC 13 2006 USA CMC  1072501792	
DATE 12-6-06		SIGN and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any): Stewart Baskin - STEWART BASKIN	

Penalty for presenting fraudulent claim is a fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 162 AND 3571